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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/732,765	12/10/2003	Hans-Dieter Willim	298-215	6970
28249	7590	09/23/2005	EXAMINER	
DILWORTH & BARRESE, LLP 333 EARLE OVINGTON BLVD. UNIONDALE, NY 11553			BRAHAN, THOMAS J	
			ART UNIT	PAPER NUMBER
			3652	

DATE MAILED: 09/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/732,765		WILLIM, HANS-DIETER	
	<b>Examiner</b>		<b>Art Unit</b>	
	Thomas J. Brahan		3652	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 December 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>12/10/03</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

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1. Applicant's oath incorrectly lists the filing date of the German priority document as December 10, 2003 instead of in 2002. A substitute oath or declaration is required.
2. The drawings are objected to under 37 C.F.R. § 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the lever arm of claim 2, the telescopic guy stand of claim 8, and the hook and eye details of claims 10-13 must be shown, or the features must be canceled from the claims. No new matter may be entered.
3. The following is a quotation of the first paragraph of 35 U.S.C. § 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.
4. Claims 8 and 10-13 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. It is unclear as to how a telescopic guy stand could function with the disclosed tension rod as recited in claim 8. The structure of the hook and eye (22) is not understood. The reference numeral 22 does not appear to correspond to hood and eye structures. What is the hook and what is the eye? How do they function?
5. The following is a quotation of the second paragraph of 35 U.S.C. § 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which applicant regards as his invention.
6. Claims 1-20 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors. For example:
  - a. In claim 1, lines 3 and 4, the term "one of the sections" renders the claims indefinite, as it not clear that the to whether the section is the pivot section (2) or one of the telescopic sections (5-8). Note that the reference numerals in the parenthesis cannot be relied upon for any explanations of unclear claim terminology.
  - b. In claim 1, line 5, the term "the support stand" lacks antecedent basis within the claim.
  - c. In claim 1, line 8, the term "an internal telescoping section" redundantly adds an element

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into the claimed combination of elements, as this section is introduced into the claim in line 2 as a telescopic section. Claim 3 and 15 also refer to "an internal telescopic section" and "an external telescopic section" which are a redundant inclusion these sections.

d. In claim 1, line 10, the term "the section" renders the claims indefinite, as the claims include both a pivot section and telescopic sections, and the reference numerals in the parenthesis cannot be used for identifying structures in lieu of unclear claim terminology.

e. In claims 1, 5, 19, and 20, the term "housed" does not appear to be accurate.

f. In claim 2, the limitation regarding the lever arm is confusing. Is applicant attempting to claim that the guy stand has an element which is a lever arm or that the guy stand acts as a lever arm?

g. In claims 3 and 15, the limitations "preferably the collar of the innermost telescopic section" and "preferably the lower area of the pivot section" fail to positively recite the structure of the claimed invention due to the term "preferably".

h. In claims 3 and 15, the term "the innermost telescopic section" lacks antecedent basis within the claims.

i. In claims 4, 5 and 16-20, the term "the collar" lacks antecedent basis within the claims.

j. Claims 4 and 16-18 also refer to "a middle section" and "a first telescopic section" which are a redundant inclusion these sections.

k. In claims 4 and 16-18, the limitation "preferably on the collar of a first telescopic section" fails to positively recite the structure of the claimed invention due to the term "preferably".

l. In claims 5, 19 and 20, the term "the immediately adjacent telescopic section" lacks antecedent basis within the claims.

m. Claims 5, 19 and 20 refer to "the telescopic section" which should be "one of the telescopic sections" as claim 1 has plural sections.

n. In claim 5, 19 and 20, the limitation "which is held directly in the telescopic section (5) on which the guy stand (11) is housed to pivot" indirectly claims that the guy stand is pivoted to a telescopic section, when claim 1 has it pivoted to pivot section or a telescopic section. Also the term "housed" does not appear to be accurate.

o. In claim 6, the limitation "preferably comprising a telescopic pipe with several extension lengths" fails to positively recite the structure of the claimed invention due to the term "preferably".

p. Claim 7 is indefinite as it fails to correlate the tension rod and the guy cable of the last two lines with the tension rod and guy cable recited in claim 1.

q. Claim 8 is not understood; should it read "in which the length of the guy stand can be changed"? Also the term "in particular" fails to positively recite the structure of the invention.

r. In claim 9, the term "the several guy stands" lacks antecedent basis within the claims.

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- s. Claim 10 fails to positively recite the structure of the claimed invention due to the terms "preferably" and "particularly".
  - t. In claim 11, the use of the term "a given guy cable" is awkward and should clearly refer to one of the elements already included in the claims.
  - u. In claim 12, the term "the hook and eye" lacks antecedent basis within the claims. The claim also fails to positively recite the structure of the claimed invention due to the term "in particular".
  - v. In claim 13, the term "the hook and eye" and "the storage device" lack antecedent basis within the claims.
  - w. In claim 14, the term "the cable storage device" lacks antecedent basis within the claims.
7. Claims 8 and 10-12 are not understood and have not been treated further on the merits with rejections based upon prior art.
8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:
- A person shall be entitled to a patent unless --  
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
9. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
10. Claims 1, 2, 6 and 7, as best understood, are rejected under 35 U.S.C. § 102(b) as being anticipated by Higgins. Higgins shows a telescopic boom of a crane with a pivot section (12), telescopic sections (14, 16) and guy stands (72) which include erection mechanism comprising tension rods (66). The guy stands are inclined, with respect to the ground, and act as lever arms, as claim 2 is best understood. The tension rods (66) are telescopic pipes, see figures 14a and 14b, as recited in claim 6. The two guy stands (72) form a V, as recited in claim 7.
11. Claims 1-3, 9, 13 and 14, as best understood, are rejected under 35 U.S.C. § 103(a) as being unpatentable over Kishi in view of Praschak or Templeton. Kishi shows a telescopic boom of a crane with a pivot section (9), telescopic sections (10, 11) that telescope out of the pivot section (9), and a guying that

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has at least one guy stand (18) housed to pivot on one of the sections (9-11) and at least one guy cable (22) supported by the guy stand (18), as well as erection mechanisms for raising the guy stand (18) out of folded transportation position into raised operating position, wherein the erection mechanism comprises a tension member (24; see figure 11) that connects the guy stand (18) with an internal telescoping section (10), which can be telescoped outward opposite the section (9) on which the stand (18) is housed to pivot. Kishi varies from the claims by having tension member (24) formed as a wire, not a rod. However wires, cables and rods are recognized equivalents in the guying art. Praschak shows a similar support (61) which is disclosed as being a wire or a rod, see the last line of column 3. Templeton shows a similar guying with supplemental members (51 and 52) formed as either cables or rods, see column 3, lines 5-9. It would have been obvious to one of ordinary skill in the art at the time the invention was made by applicant to modify the guying tension member (24) of Kishi by forming it as a rod instead of a wire, as rods are art recognized equivalents to wires or cables, as taught by Praschak or by Templeton. The guy stand acts as an inclined lever arm, as claim 2 is best understood. The guy rope runs unattached over some of the guy stands, see figure 9, as recited in the beginning of claim 3. Kishi has several guy stands (17-19) on different telescopic sections (9-11), as recited in claim 9. Kishi has pulleys as cable storage devices located inside the pivot section (9; see figure 11), as claims 13 and 14 are best understood.

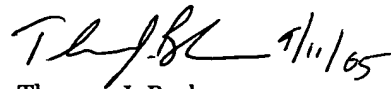
12. Claims 3-6 and 15-20, as best understood, are rejected under 35 U.S.C. § 103(a) as being unpatentable over Kishi in view of Praschak or Templeton, as applied above to claims 1 and 2, and further in view of Higgins. Kishi, as modified, shows the basic telescopic boom and guying; the guy ropes run unattached over some of the guy stands, see figure 9, as recited in the beginning of claim 3. Kishi lacks the collars that might be considered as being claimed in claim 3 and in other claims. Higgins shows a similar guy system with the guy stands (72) mounted to the boom section through a collar (32). It would have been obvious to one of ordinary skill in the art at the time the invention was made by applicant to mount the guy stands (17-19) of Kishi on collar structures, for a reinforced mounting arrangement, as taught by Higgins.

13. Weaver, Brown, Gyomrey, Bocker and Smith are cited as showing related guying arrangements. Garnett shows a tension element (67) that can be formed as a cable or as a rod, see column 5, lines 19 and 20. Hamme shows a tension element (17) that can be formed as a cable or as a folded rod, see column 2, lines 59 and 60.

14. An inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas J. Brahan whose telephone number is (571) 272-6921. The examiner's supervisor, Ms. Eileen Lillis, can be reached at (571) 272-6928. The new fax number for all patent applications is (571) 273-8300. Information regarding the status of an application may be obtained from the Patent

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Thomas J. Brahan  
Primary Examiner  
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